

**MEMORANDUM OF GUIDANCE**  
**AS TO ENFORCEMENT OF MONEY JUDGMENTS**  
**BETWEEN**  
**THE SUPREME COURT OF SINGAPORE**  
**AND**  
**THE SUPREME COURT OF BERMUDA**

**Introduction**

1. The purpose of this Memorandum of Guidance (“MOG”) is to set out the parties’ understanding of the procedures for the enforcement of each party’s money judgments in the other party’s courts. This MOG is concerned only with judgments requiring a person to pay a sum of money to another person.
2. This MOG does not create any binding legal obligations on the parties. This MOG does not constitute a treaty or legislation, is not binding on the judicial officers of either party and does not supersede any existing or future laws, judicial decisions or court rules. It is not intended to be exhaustive and is not intended to create or alter any existing or future legal rights or relations or to create any binding arrangements for the reciprocal enforcement of each party’s money judgments in the other party’s courts.
3. The parties desire and believe that the cooperation demonstrated by this MOG will provide a mutual understanding of their laws and judicial processes and will improve public perception and understanding.

**The Supreme Court of Singapore**

4. The Supreme Court of Singapore is a superior court of law. It comprises the Singapore High Court and the Singapore Court of Appeal. The Singapore International Commercial Court is a division of the Singapore High Court and part of the Supreme Court of Singapore.

## **The Supreme Court of Bermuda**

5. The Supreme Court of Bermuda is a superior court of record. The Commercial Court is a division of the Supreme Court of Bermuda.

## **The requirements for enforcing judgments of the Supreme Court of Bermuda in the Supreme Court of Singapore**

6. There is currently no treaty in place pursuant to which either party's judgments may be enforced by the other party's courts. In the absence of a relevant treaty, a foreign judgment may be enforced in the Supreme Court of Singapore by a claim made at common law.
7. The approach of the Supreme Court of Singapore is similar to the position found in the English common law. Where a foreign court of competent jurisdiction has determined that a certain sum is due from one person to another (*i.e.*, a money judgment), a legal obligation arises on the debtor to pay that judgment debt. This legal obligation to pay is separate from the underlying cause of action that gave rise to the judgment. The creditor may then bring a claim at common law to enforce that obligation as a debt.
8. The judgment of the Supreme Court of Bermuda must be final and conclusive on the merits of the case, and for a fixed or ascertainable sum of money. The fact that there is an appeal to a higher court does not prevent the judgment from being final and conclusive.
9. The Supreme Court of Singapore will not enforce a judgment of the Supreme Court of Bermuda which would amount to the direct or indirect enforcement of any foreign penal, revenue or public law, or that orders the person against whom the judgment was given to do anything else apart from the payment of the judgment sum.
10. The Supreme Court of Bermuda must have had jurisdiction, according to the conflict of laws rules determined to be applicable by the Supreme Court of Singapore, to determine the subject matter of the dispute. The Supreme Court of Singapore will generally consider the Supreme Court of Bermuda to have had the required jurisdiction only where the person against whom the judgment was given:
  - (a) was, at the time the proceedings were commenced, present or resident in the jurisdiction of the Supreme Court of Bermuda;
  - (b) was the claimant, or counterclaimant, in the proceedings;
  - (c) submitted to the jurisdiction of the Supreme Court of Bermuda; or

- (d) agreed, before commencement of the proceedings, in respect of the subject matter of the proceedings, to submit to the jurisdiction of the Supreme Court of Bermuda.
11. Where the above requirements are established to the satisfaction of the Supreme Court of Singapore, a judgment of the Supreme Court of Bermuda may be challenged in the Supreme Court of Singapore only on limited grounds. Those grounds include, but are not limited to:
- (a) where the judgment was procured by fraud;
  - (b) where the enforcement of the judgment would be contrary to Singapore public policy; and
  - (c) where the proceedings in which the judgment was obtained were conducted in a manner which the Supreme Court of Singapore regards as contrary to the principles of natural justice.
12. The Supreme Court of Singapore will not re-examine the merits of a judgment of the Supreme Court of Bermuda. The judgment may not be challenged on the grounds that it contains an error of fact or law. A judgment of the Supreme Court of Bermuda will be enforced on the basis that the judgment debtor has a legal obligation, recognised by the Supreme Court of Singapore, to satisfy a judgment of the Supreme Court of Bermuda.

### **The requirements for enforcing judgments of the Supreme Court of Singapore in the Supreme Court of Bermuda**

13. There is currently no treaty in place pursuant to which either party's judgments may be enforced by the other party's courts. In the absence of a relevant treaty, a foreign judgment may be enforced in the Supreme Court of Bermuda by a claim made at common law.
14. The approach of the Supreme Court of Bermuda is similar to the position found in the English common law. Where a foreign court of competent jurisdiction has determined that a certain sum is due from one person to another (*i.e.*, a money judgment), a legal obligation arises on the debtor to pay that judgment debt. This legal obligation to pay is separate from the underlying cause of action that gave rise to the judgment. The creditor may then bring a claim at common law to enforce that obligation as a debt.
15. The judgment of the Supreme Court of Singapore must be final and conclusive on the merits of the case, and for a fixed or ascertainable sum of money. The fact that there is an appeal to a higher court does not prevent the judgment from being final and conclusive.

16. The Supreme Court of Bermuda will not enforce a judgment of the Supreme Court of Singapore which would amount to the direct or indirect enforcement of any foreign penal, revenue or public law, or that orders the person against whom the judgment was given to do anything else apart from the payment of the judgment sum.
17. The Supreme Court of Singapore must have had jurisdiction, according to the conflict of laws rules determined to be applicable by the Supreme Court of Bermuda, to determine the subject matter of the dispute. The Supreme Court of Bermuda will generally consider the Supreme Court of Singapore to have had the required jurisdiction only where the person against whom the judgment was given:
  - (a) was, at the time the proceedings were commenced, present or resident in the jurisdiction of the Supreme Court of Singapore;
  - (b) was the claimant, or counterclaimant, in the proceedings;
  - (c) submitted to the jurisdiction of the Supreme Court of Singapore; or
  - (d) agreed, before commencement of the proceedings, in respect of the subject matter of the proceedings, to submit to the jurisdiction of the Supreme Court of Singapore.
18. Where the above requirements are established to the satisfaction of the Supreme Court of Bermuda, a judgment of the Supreme Court of Bermuda may be challenged in the Supreme Court of Singapore only on limited grounds. Those grounds include, but are not limited to:
  - (a) where the judgment was procured by fraud;
  - (b) where the enforcement of the judgment would be contrary to Singapore public policy; and
  - (c) where the proceedings in which the judgment was obtained were conducted in a manner which the Supreme Court of Bermuda regards as contrary to the principles of natural justice.
19. The Supreme Court of Bermuda will not re-examine the merits of a judgment of the Supreme Court of Singapore. The judgment may not be challenged on the grounds that it contains an error of fact or law. A judgment of the Supreme Court of Singapore will be enforced on the basis that the judgment debtor has a legal obligation, recognised by the Supreme Court of Bermuda, to satisfy a judgment of the Supreme Court of Singapore.

## **The procedure for enforcement of judgments of the Supreme Court of Bermuda in the Supreme Court of Singapore**

20. In order to enforce a judgment of the Supreme Court of Bermuda in the Supreme Court of Singapore, the judgment creditor must commence an action by filing a writ of summons in the Supreme Court of Singapore, providing a concise statement of the nature of the claim and claiming the amount of the judgment debt. A certified copy of the judgment should be exhibited to the writ.
21. A judgment creditor may obtain a certified copy of a judgment of the Supreme Court of Bermuda by making an application to the Registrar of the Supreme Court of Bermuda in accordance with the Rules and Practice Directions of the Supreme Court of Bermuda.
22. Where the judgment debtor is outside of Singapore, the judgment creditor will have to seek the leave of court to serve the writ out of jurisdiction in accordance with Order 11 of the Singapore Rules of Court. The application for leave should be supported by an affidavit:
  - (a) exhibiting a certified copy of the judgment of the Supreme Court of Bermuda;
  - (b) stating that the claim is brought to enforce a judgment of the Supreme Court of Bermuda (see Order 11, Rule 1(m) of the Singapore Rules of Court);
  - (c) stating that the judgment creditor believes that it has a good cause of action; and
  - (d) stating the place or country the judgment debtor is, or probably may be found.
23. If, following service, the judgment debtor does not respond to the claim by entering an appearance, the judgment creditor will be entitled to obtain judgment in default of appearance under Order 13 of the Singapore Rules of Court.
24. If the judgment debtor acknowledges service and enters an appearance, the judgment creditor must file and serve a statement of claim setting out the material facts which are relied upon for the claim, and the necessary particulars of the claim.
25. In most cases, a judgment creditor will be entitled to apply to obtain summary judgment without trial under Order 14 of the Singapore Rules of Court, unless the judgment debtor can show that there is a triable issue in relation to a defence, which include, but are not limited to, the grounds set out in paragraph 11 above. Applications for summary judgment are dealt with swiftly, without the need for oral evidence.
26. If the claim on the judgment of the Supreme Court of Bermuda is successful, the judgment creditor will then have the benefit of a judgment of the Supreme Court of Singapore. The judgment creditor will be entitled, if necessary, to use the procedures of the Supreme Court of Singapore to enforce the judgment under Order 45 of the Singapore Rules of Court.

## **The procedure for enforcement of judgments of the Supreme Court of Singapore in the Supreme Court of Bermuda**

27. In order to enforce a judgment of the Supreme Court of Singapore in the Supreme Court of Bermuda, the judgment creditor must commence an action by filing a writ of summons in the Supreme Court of Bermuda, providing a concise statement of the nature of the claim and claiming the amount of the judgment debt. A certified copy of the judgment should be exhibited to the writ.
28. A judgment creditor may obtain a certified copy of a judgment of the Supreme Court of Singapore by making an application in accordance with the Supreme Court of Singapore Practice Directions or the Singapore International Commercial Court Practice Directions (as the case may be).
29. Where the judgment debtor is outside of Bermuda, the judgment creditor will have to seek the leave of court to serve the writ out of jurisdiction in accordance with Order 11 of the Bermuda Rules of the Supreme Court. The application for leave should be supported by an affidavit:
  - (a) exhibiting a certified copy of the judgment of the Supreme Court of Singapore;
  - (b) stating that the claim is brought to enforce a judgment of the Supreme Court of Singapore (see Order 11, Rule 1(m) of the Bermuda Rules of the Supreme Court);
  - (c) stating that the judgment creditor believes that it has a good cause of action; and
  - (d) stating the place or country the judgment debtor is, or probably may be found.
30. If, following service, the judgment debtor does not respond to the claim by entering an appearance, the judgment creditor will be entitled to obtain judgment in default of appearance under Order 13 of the Bermuda Rules of the Supreme Court.
31. If the judgment debtor acknowledges service and enters an appearance, the judgment creditor must file and serve a statement of claim setting out the material facts which are relied upon for the claim, and the necessary particulars of the claim.
32. In most cases, a judgment creditor will be entitled to apply to obtain summary judgment without trial under Order 14 of the Bermuda Rules of the Supreme Court, unless the judgment debtor can show that there is a triable issue in relation to a defence, which include, but are not limited to, the grounds set out in paragraph 18 above. Applications for summary judgment are dealt with swiftly, without the need for oral evidence.
33. If the claim on the judgment of the Supreme Court of Singapore is successful, the judgment creditor will then have the benefit of a judgment of the Supreme Court of Bermuda. The judgment creditor will be entitled, if necessary, to use the procedures of

the Supreme Court of Bermuda to enforce the judgment under Order 45 and other relevant provisions of the Bermuda Rules of the Supreme Court.

### **Term of MOG**

34. This MOG shall commence on the date of this MOG. Either party may terminate this MOG by giving the other party six (6) months' notice in writing.

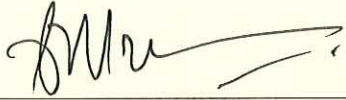
### **Variation of MOG**

35. This MOG may be varied in writing and any such variation shall be signed by both Parties.

### **Contacting the Courts**

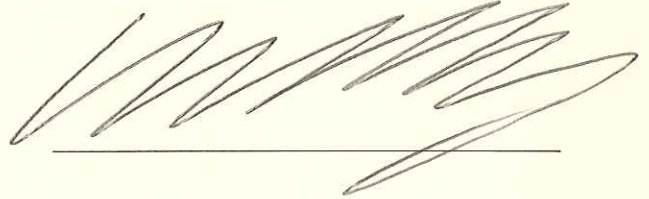
36. Further information about the Supreme Court of Singapore can be obtained:
- (a) by visiting the website of the Supreme Court of Singapore at <http://www.supremecourt.gov.sg>; or
  - (b) by contacting the Registry of the Supreme Court of Singapore:
    - (i) at Level 2, 1 Supreme Court Lane, Singapore 178879;
    - (ii) by telephone at +65 6336 0644; or
    - (iii) by email at [supcourt\\_registry@supcourt.gov.sg](mailto:supcourt_registry@supcourt.gov.sg).
37. Further information about the Supreme Court of Bermuda can be obtained:
- (a) by visiting the website of the Supreme Court of Bermuda at <http://www.gov.bm/supreme-court>; or
  - (b) by contacting the Registry of the Supreme Court of Bermuda:
    - (i) at 2<sup>nd</sup> Floor, Government Administration Building, 30 Parliament Street, Hamilton HM12;
    - (ii) by telephone at + 441 292 1350; or
    - (iii) by email at [supremecourt@gov.bm](mailto:supremecourt@gov.bm).

**SIGNED** this 6th day of September, 2017 by:



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Sundaresh Menon  
Chief Justice  
Supreme Court of Singapore



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Ian Kawaley  
Chief Justice  
Supreme Court of Bermuda